

# 2006 Special Instructions for Married Couples Where One Spouse is a Utah Non-resident



Utah State Tax Commission

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## DRAFT

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## General Instructions

When a husband and wife file a joint federal return, they would normally be required to file a joint Utah return. However, when one spouse is a full-year Utah resident and the other spouse is a full-year nonresident, they may file using these Special Instructions.

If either spouse is a part-year Utah resident, the couple **cannot** file using these Special Instructions, but must prepare their Utah return using the same filing status as on their federal return.

federal and Utah tax returns. They will qualify for Special Instructions in 2007 if Doug is a full-year Utah resident and Marlene remains a nonresident during calendar year 2007.

### Example 3:

Sally moved to Utah in 2005. Her husband, Brian, did not move to Utah until June 2006. Sally and Brian **do not qualify** to use Special Instructions for calendar year 2006 because Sally was a full-year resident and Brian was a part-year resident.

## Married Couples Who May Use Special Instructions

A married person and his or her spouse may only use these Special Instructions if one of them is a full-year Utah resident and the other is a full-year nonresident.

A spouse who was a full-year Utah resident before marrying a nonresident person may use these Special Instructions. Also, if the spouse is a full-year Utah resident who came to Utah to live without their spouse, he or she may use these Special Instructions.

### Example 1:

Tom and Susan married in June of 2006 and live in Utah. Tom is a full-year Utah resident, but Susan lived in Arizona prior to their wedding. Both Tom and Susan have income from Utah sources. Tom and Susan **do not qualify** to use Special Instructions because Susan was a part-year Utah resident. They must use the same filing status on their Utah tax return as they use on their federal tax return.

### Example 2:

Doug moved to Utah in May of 2006. His wife, Marlene, lives in another state and does not plan to move to Utah. Doug and Marlene **do not qualify** to use Special Instructions until tax year 2007 because Doug was only a part-year resident in 2006. They must use the same filing status on both their

## Are Military Personnel and Their Families Subject to Utah Income Tax?

The spouse of a person in active military service is generally considered, for Utah tax purposes, to have the military person's domicile and is subject to the same income tax laws and rules that apply to the military person.

Nonresidents who are stationed in Utah solely due to military orders are not subject to tax on their military pay in Utah. However, nonresident military personnel and members of their family who have earned income from Utah sources, other than active duty military service pay, are required to file a nonresident Utah tax return and pay any taxes due. (See additional instructions for military personnel in Pub 57.)

A military person and his or her spouse may only use these Special Instructions if one spouse is a full-year Utah resident and the other spouse is a full-year nonresident.

## How to Calculate Utah Tax Using Special Instructions

Married couples that qualify to use Special Instructions and file a federal return as married filing joint may file Utah returns as married filing separate. If they file a joint federal return, both spouses must compute Utah taxable income "as if" their federal income had been computed separately, as follows. (Retain documentation of all computations with your records.)

1. Determine the "as if" federal adjusted gross income for each spouse. Divide any adjustments between the spouses in proportion to their respective incomes.
  2. Allocate a portion of each Utah add-back item (lines 5 and 6 of TC-40) and deduction (lines 8 through 13 of TC-40) to each spouse. Determine this allocation as follows:
    - a. Divide the "as if" federal adjusted gross income of each spouse by the actual federal adjusted gross income shown on their joint federal return. Round the resulting percentage to four decimal places.
    - b. Multiply each Utah add-back item and deduction by the percentage calculated in "2-a" above. The allocable add-back items and deductions are:
      - State income tax deducted as an itemized deduction on federal Schedule A,
      - Other items that are added back to federal adjusted gross income on the state return (see instructions for line 6 of TC-40),
      - Standard or itemized deductions,
      - State exemptions for dependents,
      - One-half the federal tax liability,
      - State income tax refund included on the federal return, and
      - Other state deductions (see instructions for line 13 of TC-40).
    - c. The only item on the Utah return not allocated between the spouses' separate returns is his or her personal exemption.
- Example:** If the husband has 80 percent of the federal adjusted gross income, he may add-back or deduct 80% of each item listed in "2-b" above, but he may deduct 100% of his personal exemption. The wife would add-back or deduct 20 percent of each item listed in "2-b" above and deduct 100 percent of her personal exemption.
4. The amounts claimed on the Utah return, line 5 (state income tax deducted as a federal itemized deduction) and line 8 (itemized deductions) are limited if federal adjusted gross income exceeds \$75,250. (The standard deduction, if claimed on line 8, is not subject to any limitation.) See the IRS instructions for Schedule A if this limitation applies to either spouse.
  5. Line 9, personal exemptions deduction, is limited if federal adjusted gross income exceeds \$112,875. See the Utah instructions for line 9 if this limitation applies to either spouse.
  6. Complete the remainder of the Utah return.
    - a. Resident spouse – Use the Utah taxable income on line 15 to calculate the Utah income tax on line 17.
    - b. Nonresident spouse – Use the Utah taxable income on line 15 to calculate the Utah income tax on line 17. Complete Utah form TC-40C to determine the income from Utah sources. Follow the instructions for line 18 of the return, "For Non or Part-year Residents Only," to calculate the Utah tax.
- A nonresident spouse with no Utah source income is not required to file a Utah return.

## Example for Tax Year 2006:

Becky was a full-year resident of Utah before marrying Alex in December 2006. Becky had a dependent daughter by a previous marriage. Alex was a resident of Wyoming prior to the wedding. After their honeymoon, they returned to Utah and established residence in 2007. They qualify to use Special Instructions because Becky was a full-year resident and Alex was a full-year nonresident. Their combined federal adjusted gross income reported on their federal joint return was \$75,000, consisting of \$45,000 earned by Alex in Wyoming and \$30,000 earned by Becky in Utah. Dividing \$30,000 by \$75,000 equals .4000 or 40% to be used by Becky to allocate the different items on her separate Utah resident return.

Becky's Utah Resident Return	Joint Federal Return Form 1040	"As If" Joint Utah Return Form TC-40	Percentage Allocation	Separate Utah Return Form TC-40
Federal adjusted gross income	\$75,000	\$75,000		\$30,000
State income tax deducted as an itemized deduction		3,710	0.4000	1,484
Other additions to Utah income		0	0.4000	0
Standard or itemized deductions	(10,300)	(10,300)	0.4000	(4,120)
Alex's personal exemption	(3,300)	(2,475) *	.0000	0
Becky's personal exemption	(3,300)	(2,475) *	1.0000	(2,475)
Dependent's exemption	(3,300)	(2,475) *	0.4000	(990)
Federal tax (state deduction is 1/2 of federal tax of 7,465)		(3,733)	0.4000	(1,493)
State refund from line 10 of federal return		(25)	0.4000	(10)
Other deductions from Utah income		0	0.4000	0
Utah taxable income		\$57,227		\$22,396
Utah tax calculated on line 17 (using married filing separate tax rates)		<b>\$3,764</b>		<b>\$1,447</b>

\* State exemption for 2006 is \$2,475 (75% of federal exemption of \$3,300).

**NOTE:** Couples who qualify to use Special Instructions may use a different method of allocating add-back items and deductions than outlined in this publication, if that method more accurately reflects each spouse's separate state taxable income. Keep all documentation of your computations with your return.